

IC 6-3.1-11.6**Chapter 11.6. Military Base Investment Cost Credit**

Effective 1-1-2005.

IC 6-3.1-11.6-1**"NAICS Manual"**

Effective 1-1-2005.

Sec. 1. As used in this chapter, "NAICS Manual" refers to the current edition of the North American Industry Classification System Manual - United States published by the National Technical Information Service of the United States Department of Commerce. *As added by P.L.81-2004, SEC.22.*

IC 6-3.1-11.6-2**"Qualified area"**

Effective 1-1-2005.

Sec. 2. As used in this chapter, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
- (2) a military base reuse area established under IC 36-7-30;
- (3) an economic development area established under IC 36-7-14.5-12.5; or
- (4) a military base recovery site designated under IC 6-3.1-11.5.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-3**"Pass through entity"**

Effective 1-1-2005.

Sec. 3. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-4**"Qualified investment"**

Effective 1-1-2005.

Sec. 4. As used in this chapter, "qualified investment" means any of the following:

- (1) The purchase of an ownership interest in a business that locates all or part of its operations in a qualified area during the taxable year, if the purchase is approved by the department of commerce under section 12 of this chapter.
- (2) Subject to section 13 of this chapter, an investment:
 - (A) that is made in a business that locates all or part of its operations in a qualified area during the taxable year;
 - (B) through which the taxpayer does not acquire an ownership interest in the business; and
 - (C) that is approved by the department of commerce under

section 12 of this chapter.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-5
"SIC Manual"

Effective 1-1-2005.

Sec. 5. As used in this chapter, "SIC Manual" refers to the current edition of the Standard Industrial Classification Manual of the United States Office of Management and Budget.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-6
"State tax liability"

Effective 1-1-2005.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-7
"Taxpayer"

Effective 1-1-2005.

Sec. 7. As used in this chapter, "taxpayer" means an individual or pass through entity that has any state tax liability.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-8
"Transfer ownership"

Effective 1-1-2005.

Sec. 8. As used in this chapter, "transfer ownership" means to purchase existing investment in a business, including real property, improvements to real property, or equipment.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-9
Entitlement of credit

Effective 1-1-2005.

Sec. 9. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.
As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-10
Credit for shareholder, partner, or member of pass through entity

Effective 1-1-2005.

Sec. 10. (a) If a pass through entity is entitled to a credit under section 9 of this chapter but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-11

Carryover of unused credit; carryback or refund disallowed

Effective 1-1-2005.

Sec. 11. (a) If the amount determined under section 9(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for a subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of unused credit.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-12

Amount of credit

Effective 1-1-2005.

Sec. 12. (a) To be entitled to a credit for a purchase described in section 4(1) of this chapter, a taxpayer must request the department of commerce to determine:

- (1) whether a purchase of an ownership interest in a business located in a qualified area is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) To be entitled to a credit for an investment described in section 4(2) of this chapter, a taxpayer must request the department of commerce to determine:

- (1) whether an investment in a business that locates in a qualified area during the taxable year is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before an investment is made.

(c) The department of commerce shall find that a purchase or other investment is a qualified investment if:

- (1) the business is viable;
- (2) the taxpayer has a legitimate purpose for purchase of the ownership interest or the investment;
- (3) the purchase or investment would not be made unless a credit is allowed under this chapter; and
- (4) the purchase or investment is critical to the commencement, enhancement, or expansion of business operations in the qualified area and:

(A) in the case of a purchase described in section 4(1) of this chapter, the purchase will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the qualified area; and

(B) in the case of an investment described in section 4(2) of this chapter, the investment will not be made in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, as described in section 13 of this chapter.

(d) If the department of commerce finds that a purchase or other investment is a qualified investment, the department of commerce shall certify the percentage credit to be allowed under this chapter based upon the following:

(1) For a purchase described in section 4(1) of this chapter, a percentage credit of ten percent (10%) may be allowed based on the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.

(2) A percentage credit of two percent (2%) may be allowed for purchases of or investments in business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual (or corresponding sectors in the NAICS Manual).

(3) A percentage credit of five percent (5%) may be allowed for purchases of or investments in business operations in the manufacturing codes of the SIC Manual (or corresponding sectors in the NAICS Manual).

(4) A percentage credit of five percent (5%) may be allowed for purchases of or investments in high technology business operations (as defined in IC 4-4-6.1-1.3).

(5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the business or other investment in the business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve

(12) month period following the purchase of an ownership interest in the business or other investment in the business will be reserved for residents in the qualified area.

(7) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than \$25,001	1%
\$25,001 to \$50,000	2%
\$50,001 to \$100,000	3%
\$100,001 to \$200,000	4%
More than \$200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(e) In the case of a purchase described in section 4(1) of this chapter, if all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the purchase that relates directly to the enhancement or expansion of business operations in the qualified area.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-13

Credit disallowed for a business that reduces or ceases operations in Indiana to relocate within a qualified area

Effective 1-1-2005.

Sec. 13. (a) This subsection applies to an investment described in section 4(2) of this chapter.

(b) A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer invests in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

- (1) the business had existing operations in the qualified area; and
- (2) the operations relocated to the qualified area are an expansion of the business's operations in the qualified area.

(c) A determination under subsection (b) that a taxpayer is not entitled to the credit provided by this chapter as a result of a business's substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year:

- (1) in which the substantial reduction or cessation occurs; or
- (2) in which the taxpayer proposes to make the investment in the business, if different than the taxable year described in subdivision (1).

Determinations under this section shall be made by the department of state revenue.

As added by P.L.81-2004, SEC.22.

IC 6-3.1-11.6-14

Procedures for claiming credit

Effective 1-1-2005.

Sec. 14. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certification of the percentage credit by the department of commerce and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an investment is a qualified investment.

As added by P.L.81-2004, SEC.22.